IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

TUESDAY, THE 27TH FEBRUARY 2007 / 8TH PHALGUNA 1928

WP(C).No. 1333 of 2007(H)

OA.187/2006 of DEBT RECOVERY TRIBUNAL, ERNAKULAM
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PETITIONER:

M.A.NARGEES, MUSALIARAKATH HOUSE,
KODIYATHOOR P.O., KOZHIKODE.

BY ADV. SRI.M.V.BOSE
SMT.NISHA BOSE

RESPONDENTS:
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1. STATE BANK OF INDIA,
KALLAI ROAD BRANCH, KOZHIKODE,
REPRESENTED BY ITS BRANCH MANAGER.

2. DEBTS RECOVERY TRIBUNAL,
ERNAKULAM, REPRESENTED BY ITS ASSISTANT
REGISTRAR.

3. M/S.SOUPARNIKA VASTRALAYA,
REPRESENTED BY ITS MANAGING PARTNER,
M.C.ABDUL RAHIMAN, DOOR NO.MP.1/1792,
MUKKAM, KOZHIKODE.

BY ADV. SRI.A.D.RAVENDRA PRASAD, CGC
ADV.SRI.K.K.CHANDRAN PILLAI -- SC FOR SBI
SRI.A.S.SAJUSH PAUL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27/02/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 1333/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE PROCEEDINGS DT. 5/1/2001 SANCTIONING THE CREDIT FACILITY.

EXT.P2. COPY OF THE MEMORANDUM OF DEPOSIT OF TITLE DEED, EVIDENCING THE INTENTION AND DEPOSIT, DT. 6/1/2001.

EXT.P3. COPY OF THE LAWYER NOTICE DT. 2/08/2004, BY ADV. N. RAMAKRISHNAN.

EXT.P4. COPY OF THE FINAL ORDER IN OA NO. 187/2006 DT. 1/11/2006 OF THE DEBTS RECOVERY TRIBUNAL, ERNAKULAM.

EXT.P5. COPY OF THE STATEMENT OF THE R1.

EXT.P6. COPY OF THE RECEIPT AND THE DETAILS.

EXT.P7. COPY OF THE RELEVANT PAGES FROM DOCUMENT DT. 8/8/02.

EXT.P8. COPY OF THE RELEVANT PAGES FROM THE DT. 17/11/2005.

EXT.P9. COPY OF THE ASSIGNMENT DEED DT. 12/10/2006 REGISTERED IN THE NAME OF SRI. ABDUL RAHIMAN.

True copy

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K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 1333 OF 2007-H

JUDGMENT

The petitioner challenges Ext.P4 final order passed by the Debt Recovery Tribunal. If he is aggrieved by the said order, the remedy is to file appeal before the appellate Tribunal. If the petitioner files an appeal, while computing the period of limitation, the period this Writ Petition was pending before this Court shall be excluded.

2. The petitioner expresses her willingness to pay off the amount due to the 1st respondent Bank. But, she prays for some relief regarding interest etc. The learned standing counsel for the 1st respondent Bank submitted that at present the OTS scheme is not in force. Therefore, the benefit of the said scheme cannot be extended to the petitioner.

3. The competent authority of the 1st respondent is directed to consider granting of maximum relief that could be extended to the petitioner in the matter of waiver of interest, so as to enable her to close the loan account. This the said authority shall decide and inform the petitioner within one month from the date of receipt of a copy of this judgment. The Bank shall also consider whether any instalment facility could be granted to

her, subject to realisation of interest for the delayed period. The petitioner may file a representation along with a copy of this judgment before the 1st respondent within two weeks from today. In view of the substantial payment of Rs.10 lakhs made by the petitioner, further coercive steps shall not be taken against the mortgaged property, till a decision is taken and communicated to the petitioner. The Bank will be free to proceed with other assets of the principal loanee.

The Writ Petition is disposed of as above.

27th February, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/